



# Town of Groton, Connecticut

## Meeting Agenda

### Town Council

45 Fort Hill Road  
Groton, CT 06340-4394  
Town Clerk (860)441-6640  
Town Manager (860)441-6630

*Mayor Harry A. Watson, Councilors Peter J. Bartinik, Jr., Natalie Burfoot Billing, Heather Sherman Bond, Catherine Kolnaski, Frank O'Beirne, Jr., Paulann H. Sheets, Thomas J. Skrmetti, and Elissa T. Wright.*

Tuesday, July 05, 2005

7:30 PM

Town Hall Annex - Community Room 1

### REGULAR MEETING

#### I. ROLL CALL

#### II. SALUTE TO THE FLAG

#### III. RECOGNITION, AWARDS & MEMORIALS

2005-0194 Proclamation Recognizing Andrew James Sidlinger

Proclamation - TC

#### IV. CITIZENS' PETITIONS, COMMENTS AND CONCERNS

This is the portion of the Council Agenda where the Council welcomes comments from citizens. Each presentation should be limited to ten minutes or less, and citizens should, if possible, submit written comments. Presentations should be related to matters pertinent to Groton. Town Councilors will only ask questions in order to clarify the speaker's presentation and can respond during the Responses to Citizens' Petitions portion of the Town Council meeting. Citizens should make their presentations from the lectern and state their names and addresses for the record.

#### V. RESPONSES TO CITIZENS' PETITIONS, COMMENTS AND CONCERNS

#### VI. CONSENT CALENDAR

All matters listed under Item VI (Consent Calendar) are considered to be routine and will be enacted by one motion. No separate discussion of these items will take place, unless cause is shown prior to the time Council votes on the motion to adopt.

##### a. Approval of Minutes

2005-0201 Approval of Minutes (Town Council)

Resolution - Consent

RESOLUTION ACCEPTING TOWN COUNCIL MINUTES

RESOLVED, that the minutes of the Town Council Meeting of June 21, 2005 and June 28, 2005 are hereby accepted and approved.

##### b. Deletions from the Town Council Referral List

2005-0043 Jabez Smith House Property Expansion

Referral

2005-0044 Restrictions in the Deeds of Town-Owned Properties

Referral

2004-0196 Conservation Easements

Referral

2005-0121 Vandalism in Noank

Referral

2005-0162 Project Labor Agreements

Referral

2005-0198 Adoption of Ordinance for Fort Hill Homes Sewer Rehabilitation Project

Referral

##### c. Special Trust Fund Contributions

2005-0200 Special Trust Fund Contributions

Resolution - Consent

## RESOLUTION ACCEPTING CONTRIBUTIONS TO SPECIAL TRUST FUNDS

RESOLVED, that the Town Council hereby accepts contributions to the Town as follows:

CSEA Chapter 416 - \$125.00 - Library Discretionary

**VII. COMMUNICATION REPORTS (Other than Committee Reports)**

- a. Town Councilors**
- b. Representative Town Meeting**
- c. Clerk of the Council**
- d. Town Manager**
- e. Town Attorney**

**VIII. COMMITTEE REPORTS**

- a. Community & Cultural Development - Chairman Billing**
- b. Economic Development - Chairman Bond**
- c. Education/Health & Social Services - Chairman Kolnaski**
- d. Environment & Recreation - Chairman Sheets**
- e. Finance - Chairman Wright**
- f. Personnel/Appointments/Rules - Chairman O'Beirne**
- g. Public Safety - Chairman Skrmetti**
- h. Public Works - Chairman Bartinik**
- i. Committee of the Whole - Mayor Watson**

**IX. UNFINISHED BUSINESS****X. NEW BUSINESS****2005-0044 Restrictions in the Deeds of Town-Owned Properties****Referral**

RESOLUTION IN AID OF TITLE TO FIVE PARCELS OWNED BY THE TOWN OF GROTON DEDICATED AND RESTRICTED TO OPEN SPACE, CONSERVATION, AND RECREATION PURPOSES IN PERPETUITY

1. In the TOWN OF GROTON there are six (6) parcels of land owned by said TOWN OF GROTON, which were purchased, in whole or in part, with the proceeds of bonds and notes authorized and issued pursuant to Bond Referendum Ordinance No. 195, an "Ordinance Appropriating \$8,000,000 for Land Acquisition for Open Space, Conservation and Recreation Purposes and Authorizing the Issue of Bonds and Notes in the Same Amount to Defray Said Appropriation", which ordinance was adopted by roll call vote of the Groton Town Council on July 5, 1988 (7 Yes; 1 No), and by roll call vote of the Groton Representative Town Meeting on August 10, 1988 (32 Yes; 3 No; 1 Abstention), and by the voters at Referendum held on November 8, 1988 (7619 Yes; 2639 No), and which provides at Section 1 thereof: "That the sum of EIGHT MILLION DOLLARS (\$8,000,000) is appropriated for acquisition of as yet undetermined parcels of land, easements, interests or rights therein or the lease thereof, for open space, conservation, and recreation purposes and the entering into of covenants and agreements with owners of such land or interests therein to maintain, improve, protect, limit the future use of or otherwise conserve such land." (Exhibit A - Certified Copy of Ordinance No. 195)

Notwithstanding such express dedication, there is no reference or restriction in the deeds to five (5)

of the six (6) parcels of land to the "open space, conservation, and recreation purposes" for which the properties were purchased and to which they are dedicated by virtue of their acquisition, in whole or in part, with proceeds of bonds and notes issued and authorized under the ordinance.

2. The Town Council of the Town of Groton and the Conservation Commission of the Town of Groton are of the opinion that there ought to be some public record, particularly on the land records, of the dedication of these lands to open space, conservation and recreation, without which future generations will lose track of the fact that said properties are restricted and dedicated in their use for open space, conservation, and recreation purposes. A case in point, and an example of what did happen in the Town of Groton, is the Elihu Spicer poor farm at the top of Fort Hill. This property was deeded to the Town of Groton for the charitable use and benefit of the poor, but has been used for many years for other municipal purposes, the charitable use dedication having been completely overlooked in the development of the police station, public works garage, municipal office and public meeting complex, and, on the westerly side of Connecticut Route # 215, as a portion of the public high school premises.

3. The following items should be noted as having such dedication, all of them being held in the name of the TOWN OF GROTON and more particularly described below:

(a) Merritt Farm - Fort Hill. This 35-acre tract abutting the site of Fitch Senior High School along the south side of Connecticut Route 1 and Connecticut Route 215 was purchased at a cost of \$700,000, with forty percent (40%) of the cost provided by a State of Connecticut Open Space Grant. The explanatory text authorized by the Groton Town Council by Resolution of September 6, 1988, prepared by the Town Clerk and approved by the Town Attorney pursuant to Connecticut General Statutes Section 9-369b in connection with the Referendum on Bond Ordinance No. 195 (hereinafter explanatory text) states: "Approximately 10 acres could be for expansion of high school athletic fields and Town recreation site, remaining 25 acres for passive open space and conservation of wooded hillside." The parcel, designated as Property Identification Number (PIN): 260809176052 E in the Assessor's records, was conveyed to the TOWN OF GROTON, as Grantee, by Warranty Deeds of MARY E. MERRITT, individually and as conservator of the ESTATE OF ROSCOE C. MERRITT, as Grantors, dated and recorded on January 27, 1989, as appears of record at Vol. 483, Page 370 and Vol. 483, Page 373 on the Groton Land Records, and is subject to the town's bond ordinance dedication, which restricts the uses of the parcel to open space, conservation, and recreation, and also to the covenants and agreements with the STATE OF CONNECTICUT in consideration for the state grant-in-aid, including that "said land shall not be conveyed or converted to any use other than recreation or conservation purposes (as defined in . . . Sections 7-131c through 7-131k [of the Connecticut General Statutes], as amended), except with the approval of the Commissioner of the Department of Environmental Protection as provided in Sections 7-131c through 7-131k of the Connecticut General Statutes, as amended," which covenants and agreements are incorporated in the "Dedication Agreement, Connecticut Open Space Project #415, Municipality of Groton, Merritt Property," executed by C. Richard Foote, Groton Town Manager, on behalf of the TOWN OF GROTON, dated October 9, 1990, and recorded October 15, 1990, at Vol. 519 Page 333 on the Groton Land Records. The principles of the dedication as reflected in the ordinance run with the land, are binding on the Town of Groton and its successors and assigns, should have been incorporated in the deed, and now require public acknowledgement in the land records.

(b) Mystic Community Center Property: These two parcels of land comprising 39.67 acres are situated on the easterly and westerly sides of River Road one-half mile north of Interstate Route I-95. They were purchased at a cost of \$880,000, "primarily for open space preservation and conservation of wooded site," as described to voters in the referendum's explanatory text. The parcels, designated as PIN: 271018307204 in the Assessor's records, were conveyed to the TOWN OF GROTON, as Grantee by Warranty Deed of MYSTIC COMMUNITY CENTER, INC., Grantor, dated March 3, 1989, and recorded March 6, 1989 at Vol. 485 Page 683 on the Groton Land Records. The principles of the dedication as reflected in the ordinance run with the land, are binding on the Town of Groton and its successors and assigns, should have been incorporated in the deed, and now require public

acknowledgement on the land records.

(c) Kiely Property: This parcel, comprising 5.76 acres, is located on Route 117 immediately north of the town-owned Groton Senior Center and Groton Town Library. The property was acquired at a purchase price of \$225,000 as a "possible site for Community Center or other recreational facilities," as described to voters in the explanatory text. The parcel, designated as PIN: 169807794225 E in the Assessor's records, was conveyed to the TOWN OF GROTON, as Grantee, by Warranty Deed of Daniel T. Kiely, as Grantor, dated and recorded January 6, 1989, as appears of record at Vol. 482 Page 348 on the Groton Land Records. The principles of the dedication as reflected in the ordinance run with the land, are binding on the Town of Groton and its successors and assigns, should have been incorporated in the deed, and now require public acknowledgement on the land records.

(d) Boyer-Napert Property (now The Mortimer Wright Nature Preserve): This parcel of land comprising 75.67 acres is located on the northerly side of Groton Long Point Road (Connecticut Route 215) in the Eccleston Brook Watershed. The parcel, designated as PIN: 260810464208 E in the Assessor's records, was conveyed to the TOWN OF GROTON, as Grantee, by Warranty Deed of NOANK REALTY LIMITED PARTNERSHIP, as Grantor, dated and recorded January 30, 1989, as appears of record at Vol. 494 Page 593 on the Groton Land Records. On April 16, 1991, the Groton Town Council adopted "Resolution Naming Town-Owned Open Space Property 'The Mortimer Wright Nature Preserve,'" which named this parcel The Mortimer Wright Nature Preserve in honor of Mortimer D. Wright, a long-time resident of the Town of Groton who devoted a significant part of his life to community service on the state and local levels. The principles of the dedication as reflected in the ordinance run with the land, are binding on the Town of Groton and its successors and assigns, should have been incorporated in the deed, and now require public acknowledgement on the land records.

(e) Burrows Field: This tract, comprising 14.6 acres, was purchased is located on the north side of Fort Hill Road (U.S. Route 1) approximately 1,200 feet east of New Town Road (Connecticut Route 117). The parcel, designated as PIN: 169808982224 E in the Assessor's records, was conveyed to the TOWN OF GROTON, as Grantee, by Warranty Deed of BELTON A. BURROWS, as Grantor, dated and recorded January 25, 1991, as appears of record at Vol. 523 Page 189 on the Groton Land Records. This parcel has been extensively developed as recreational playing fields and is now known as Poquonnock Plains Park. The principles of the dedication as reflected in the ordinance run with the land, are binding on the Town of Groton and its successors and assigns, should have been incorporated in the deed, and now require public acknowledgement on the land records.

4. A sixth parcel, known as the Copp Property, a 240 acre tract situated on the south side of Connecticut Route 184, west of Connecticut Route 117 and east of Buddington Road, was purchased with bonds and notes authorized and issued under Ordinance No. 195. Valued at \$4.5 million, the property was conveyed to the TOWN OF GROTON, as Grantee, by Warranty Deeds of seven members of the Copp family, BELTON A. BURROWS, WARREN A. BURROWS, BELTON A. COPP, DANIEL NOYES COPP, JOSEPH A. COPP, BETSEY C. HALSEY, and BARBARA C. WILSON, as Grantors, at a cost to the Town of Groton of Three Million (\$3,000,000) Dollars, with the owners making a gift to the town of the \$1.5 million difference. The deeds, which are recorded at Vol. 482 Pages 688 et seq, on the Groton Land Records, incorporate by reference the AGREEMENT OF LAND RESTRICTIONS AND COVENANTS, executed by the parties and recorded at Vol. 482 Page 682 in the Groton Land Records, which Agreement restricts the use of the property to the open space, conservation and recreation uses authorized and set forth in Ordinance No. 195. A Contract of Sale executed by the parties is recorded at Vol. 482 Page 774. As described to voters in the explanatory text to the bond ordinance referendum: "Town would agree to oversight board similar to Friends of Pequot Woods. Possible uses include future Town Wide Park, conservation of wooded and wetland areas; protection of reservoir located on west and south of site."

5. The facts set forth herein relate to the capacity in which the TOWN OF GROTON took and holds these lands in trust subject to their dedication to open space, conservation and recreation, and

seek to clarify on the land records those purposes for which these lands were purchased and are dedicated in order to forestall and prevent any future use inconsistent with the dedication of such lands that would constitute the happening of any condition or event that may terminate the estate or interest of said TOWN OF GROTON in such lands.

6. This instrument shall be recorded on the Land Records of the Town of Groton.

Adopted by the Groton Town Council on \_\_\_\_\_, \_\_\_\_\_, 2005.

**Legislative History**

**2/15/2005 Mayor Referred Town Council Committee of the W**

**2/22/2005 Town Council Committee of the Whole Not Discussed**

**3/15/2005 Town Council Committee of the Whole Discussed**

*Councilor Billing read a statement raising a number of concerns with this referral and proposed resolution. Councilor Wright stated she would speak with Councilor Billing privately to clarify the issues raised by Councilor Billing.*

**5/10/2005 Town Council Committee of the Whole Not Discussed**

*Discussion of this item was tabled to a future Committee of the Whole meeting.*

**5/24/2005 Town Council Committee of the Whole Discussed**

*Councilor Wright noted a resolution she drafted on this issue. The purpose is to include in the chain of title a reference to the bond ordinance that specified that purchased properties were to be dedicated to open space, conservation and recreation. Councilor Wright noted the five properties.*

**5/24/2005 Town Council Committee of the Whole Motion**

*that this matter be Recommended for a Resolution.*

*Councilor Billing stated she has the same objections that she noted last time this issue was presented and there have been no substantive changes to address her concerns. She questions the necessity to add this information to Land Records. Councilor O'Beirne supports the concept, but questions the terminology used. Councilor Wright noted that all of the statements are statements of fact. Councilor Skrmetti agreed with Councilor Billing citing this as unnecessary legislation. Councilor Sheets noted this document will stand alone in the chain of title for the title searcher. Councilor Billing noted the restrictions already exist. She disagrees that the statements are all fact, and objected to opinion statements. Councilor Wright noted that a title searcher is not required to look at records outside of land records. She explained the history of the Elihu Spicer Poor Farm property. Councilor Bond expressed support for the resolution.*

*Town Manager Oefinger expressed concern with clarifying something after the fact, and the potential for rewriting history. He would recommend that any document to be placed in Land Records be reviewed by the Town Attorney. Although the Spicer property may be a good argument, it should not be cited in this document. Additionally, it may not be a good example since the restriction was in the deed and still it was missed.*

*After discussion, and by consensus, the Committee agreed to send the document to the Town Attorney for review*

**6/28/2005 Town Council Committee of the Whole Recommended for a Resolution**

*Councilor Wright asked that this item be placed on the next Town Council agenda. Discussion followed and the Mayor asked that it be placed on the agenda.*

**2005-0198**

**Adoption of Ordinance for Fort Hill Homes Sewer Rehabilitation Project**

**Referral**

**ADOPTION OF ORDINANCE APPROPRIATING \$6,381,200 FOR FORT HILL HOMES SEWER REHABILITATION PROJECT AND AUTHORIZING THE ISSUE OF BONDS AND NOTES IN**

THE SAME AMOUNT TO FINANCE SAID APPROPRIATION

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GROTON:

Section 1. That the sum of SIX MILLION THREE HUNDRED EIGHTY-ONE THOUSAND TWO HUNDRED DOLLARS (\$6,381,200) is appropriated for rehabilitation of the Fort Hill Homes sanitary sewer system. The project shall include installation of approximately 19,700 linear feet of cured-in-place lining of existing 8-inch to 18-inch sewer pipe, cementitious lining of approximately 104 existing concrete manholes, and approximately 19 new concrete manholes; and replacement with new 6-inch PVC pipe and/or installation of cured-in-place lining of approximately 32,400 linear feet of existing 4-inch lateral pipes. The Town Council may reduce or modify the scope of the project and the entire appropriation may be spent on the project as so reduced or modified. The appropriation may be spent for design and construction costs, equipment, materials, easement acquisition, site improvements, engineering fees, legal fees, net interest on borrowings and other financing costs, and other expenses related to the project or its financing.

Section 2. That the Town issue bonds or notes or obligations in an amount not to exceed SIX MILLION THREE HUNDRED EIGHTY-ONE THOUSAND TWO HUNDRED DOLLARS (\$6,381,200) to finance the appropriation for the project. The amount of bonds or notes or obligations authorized to be issued shall be reduced by the amount of grants received by the Town for the project. The bonds or notes or obligations shall be issued pursuant to Section 7-259 or Sections 22a-475 to 22a-483 of the General Statutes of Connecticut, Revision of 1958, as amended, and any other enabling acts. The bonds or notes or obligations shall be secured by the irrevocable pledge of the full faith and credit of the Town of Groton. The Town does hereby covenant and agree with the holders of the bonds or notes or obligations and all notes and interim funding obligations issued in anticipation of the receipt of the proceeds from the sale of such bonds or notes or obligations that in each year while any such bonds or notes or obligations are outstanding, it will levy and collect ad valorem taxes upon all taxable properties within the Town, other than properties within the City of Groton, in an amount sufficient, with such other funds of the Town as shall be available for such purpose, to pay the interest and principal on the bonds or notes or obligations as the same become due and payable.

Section 3. That the Town issue and renew temporary notes or interim funding obligations from time to time in anticipation of the receipt of the proceeds from the sale of the bonds or notes or obligations for the project. The amount of the notes or obligations outstanding at any time shall not exceed SIX MILLION THREE HUNDRED EIGHTY-ONE THOUSAND TWO HUNDRED DOLLARS (\$6,381,200). The notes or obligations shall be issued pursuant to Section 7-264 and 7-378 or Sections 22a-475 to 22a-483 of the General Statutes of Connecticut, Revision of 1958, as amended. The notes or obligations shall be secured by the irrevocable pledge of the full faith and credit of the Town, payable as provided in Section 2. The Town shall comply with the provisions of Sections 7-378a and 7-378b of the General Statutes with respect to any notes that do not mature within the time permitted by said Sections 7-264 or 7-378, and the Town shall comply with the provisions of Section 22a-479(c) with respect to any obligations.

Section 4. That the Town Council shall determine the amount of bonds, notes or obligations authorized by Section 2 to be sold. The Town Manager and the Director of Finance shall determine the amount of any temporary notes or interim funding obligations authorized by Section 3 to be sold. The Town Manager and the Director of Finance of the Town shall sign any bonds or notes or obligations by their manual or facsimile signatures. The law firm of Day, Berry & Howard LLP is designated as bond counsel to approve the legality of the bonds or notes or obligations. The Town Manager and the Director of Finance are authorized to determine the dates, interest rates, maturities, redemption provisions, form and other details of the bonds or notes or obligations; to provide for the keeping of a record of the bonds or notes or obligations; to designate one or more banks or trust companies to be certifying bank, registrar, transfer agent and paying agent for the bonds or notes or obligations; to designate a financial advisor to the Town in connection with the sale of the bonds or notes or obligations; to sell the bonds or notes or obligations at public or private sale; to deliver the bonds or notes or obligations; and to perform all other acts which are necessary or appropriate to issue the bonds or notes or obligations.

Section 5. That the Town hereby declares its official intent under Federal Income Tax Regulation Section 1.150-2 that project costs may be paid from temporary advances of available funds and that

(except to the extent reimbursed from grant moneys) the Town reasonably expects to reimburse any such advances from the proceeds of borrowings in an aggregate principal amount not in excess of the amount of borrowing authorized above for the project. The Town Manager and the Director of Finance are authorized to amend such declaration of official intent as they deem necessary or advisable and to bind the Town pursuant to such representations and covenants as they deem necessary or advisable in order to maintain the continued exemption from federal income taxation of interest on the bonds or notes or obligations authorized by this resolution if issued on a tax-exempt basis, including covenants to pay rebates of investment earnings to the United States in future years. Section 6. That the Town Manager and the Director of Finance are authorized to make representations and enter into written agreements for the benefit of holders of the bonds or notes or obligations to provide secondary market disclosure information, which agreements may include such terms as they deem advisable or appropriate in order to comply with applicable laws or rules pertaining to the sale or purchase of such bonds or notes or obligations.

Section 7. That the Town Manager, on behalf of the Town, is authorized to apply for and accept state grants to finance the project and state loans to finance the project, and to enter into any grant or loan agreement prescribed by the State. The Town Manager, the Director of Finance and the Water Pollution Control Authority are authorized to take any other actions necessary to obtain such grants or loans pursuant to Section 22a-479 of the Connecticut General Statutes, Revision of 1958, as amended, or to any other present or future legislation, or to implement such grant or loan agreements. Section 8. That the Water Pollution Control Authority is authorized to construct the sewer project; to approve design and construction expenditures and any easement acquisition costs incurred for the sewer project; and to contract with engineers, contractors and others on behalf of the Town for said sewer project. All such authority is subject to the provisions of Section 1.

Section 9. That the Town Manager, the Director of Finance, the Water Pollution Control Authority and other proper officers of the Town are authorized to take all other action which is necessary or desirable to complete the project and to issue bonds or notes or obligations to finance the aforesaid appropriation.

Section 10. This ordinance shall become effective only if it has been adopted by vote of not less than five (5) members of the Town Council and by the Representative Town Meeting, and only if the appropriation set forth in Section 1 and the issuance of bonds and notes and obligations to finance said appropriation have been approved by the voters at referendum in accordance with Section 8.12 of the Town Charter, and notice of passage has been published in accordance with the provisions of the Town Charter.

Refer to RTM.

**Legislative History**

6/28/2005

Town Council Committee of  
the Whole

Recommended for a  
Resolution

**XI. OTHER BUSINESS**

**XII. ADJOURNMENT**